Assessment

Forest Plan Revision

Draft Land Status and Ownership, Land Uses, and Access Patterns Report

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for:
Custer Gallatin National Forest

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Contents

Introduction

National forest managers must balance conservation goals, public access, private land development, recreational use, community growth, special uses of national forest lands and other issues to determine the best use of public land, while considering rights and requests related to the land in and around the national forest. Subsequently, land status and ownership on the Custer Gallatin is a complicated topic.

Process and Methods

In this report and on the maps, the Federal lands on the Custer Gallatin National Forest, managed by the Forest Service, are termed "National Forest System" lands. Similarly, the roads and trails managed by the Forest Service are termed "National Forest System roads" and National Forest System trails." This terminology is consistent with national agency policy and direction.

Scale

The lands considered in this assessment include lands within the proclaimed boundary of the Custer Gallatin National Forest. In looking at trends and future management, this report takes into account ownership and management of lands adjacent to the national forest. This report also takes into account the existing road and trail facilities that provide access to the forest, and the additional road and trail access needs, both within and adjacent to the Custer Gallatin. This report also describes the numerous Forest Service special use authorizations (permits, leases, easements) that exist on the Custer Gallatin National Forest.

Existing Information Sources

Forest Service information resources used for this assessment include the following:

- NRM Infra Special Uses Database (SUDS)
- Automated Lands Project (ALP)
- Lands Status Records System (LSRS)
- Transportation atlas, records and analysis
- Travel Management Plan
- The Economic Profile System-Human Dimensions Toolkit (Headwaters Economics)
- Current (1987) Gallatin National Forest Land and Resource Management Plan and Final Environmental Impact Statement (FEIS)
- Current (1986) Custer National Forest Management Plan and FEIS
- Travel Management Plan (2006) and FEIS for the Gallatin National Forest
- Travel Management Plan (2009) and FEIS for Ashland Ranger District, Custer National Forest
- Travel Management Plan (2009) and FEIS for Sioux Ranger District, Custer National Forest
- Travel Management Plan (2008) and FEIS for Beartooth Ranger District, Custer National Forest
- Gallatin National Forest and Custer National Forest Lands project records (primarily 2720, 2730, 5420, 5430, 5440, 5460)

- Information and reports provided by Robert Dennee, Realty Specialist, former Gallatin National Forest Lands Program Manager and East Side Lands Zone Team Leader

Current Forest Plan Direction

Longstanding Forest Service policy for the Landownership Adjustment Program is to acquire and consolidate key tracts of private land to protect and enhance wildlife and fish habitat, wilderness, recreational opportunities, wetlands and riparian areas, and to improve legal access and long term management effectiveness. These goals and objectives are reflected in the Gallatin National Forest Land and Resource Management Plan (1987) and the Custer National Forest Management Plan (1986). These documents will hereafter be referred to as "forest plans."

The current forest plans contain a brief discussion that applications for special uses will be evaluated on a case-by-case basis and need to meet the direction in the plan. The Custer forest plan has specific direction for some agricultural uses (convenience enclosures, pasture, grazing facilities) previously authorized as a special use (Forest Service Manual 2700), but that should be authorized or managed under the range program (Forest Service Manual 2200). In addition, there is direction that energy and communication uses may be authorized; however, where technically feasible, new lines will be installed underground. The Custer forest plan also contains a "Utility Corridor" section (Appendix VIII of the plan) that sets parameters about where new utilities may be allowed and where they cannot be placed. In both plans, approval of special uses is subject to the overall national forest and management area direction.

The Gallatin Plan identified 46 locations where public access to the national forest boundary was inadequate, involving about 21 percent of the national forest land base. The Custer forest plan identified a goal of providing for public access to and within the national forest to provide at least one access point per 5 miles of administrative boundary where there is not adequate access from inside National Forest System land. Forestwide standards provide direction for Lands, Special Uses, and Rights-of-Way for access (32-38).

The Gallatin Forest implemented a Travel Management Plan in 2006 to identify and establish opportunities for public recreation use and access using the national forest road and trail system. The travel plan amended the Gallatin forest plan to move the programmatic national forest travel direction from the forest plan to the travel plan. The travel plan identifies an access goal of "Provide and maintain reasonable, legal access to Gallatin National Forest lands to provide for human use and enjoyment and to protect and manage Forest resources and values." The travel plan also identifies locations of specific access needs across the Gallatin National Forest.

On the Custer National Forest, separate travel management decisions were made for the Sioux and Ashland Ranger Districts in 2009, and the Beartooth Ranger District in 2008. Each decision identified routes (roads and trails) that were designated for public motorized travel and the type of vehicle and season of use. The decisions changed certain system roads to motorized trails or mixed motorized use roads, changed certain non-system routes to system routes (roads and trails), and identified those system and non-system routes to be used as administrative use only. The decisions also designated dispersed vehicle camping along system roads and motorized trails, and changed system roads for which there is no identified administrative, utilization, or protection need identified to maintenance level system roads available for potential

decommissioning. The travel decision for the Beartooth resulted in a forest plan amendment that removed any site-specific standards for specific routes from the forest plan. The travel management decisions for the Custer addressed only summer motorized uses in designating public motorized routes. Winter travel planning has not been initiated for the Ashland, Sioux or Beartooth Ranger Districts.

Existing Condition

Land Status and Ownership

Land ownership is the basic pattern of public and private ownership of surface and subsurface estates. It refers to the ownership of land and interests in land. The "interests in land" described in this report including conservation easements and road and trail easements.

The Custer Gallatin National Forest extends from the Madison Range on the western side of the national forest in Montana, to the Slim Buttes in South Dakota on the eastern side, a distance of approximately 700 miles. Figure 1 and Figure 2 show land ownership by county within and surrounding the plan area.

The Custer Gallatin National Forest shares boundaries with other Federal lands including Yellowstone National Park, the Beaverhead-Deerlodge National Forest and the Helena-Lewis and Clark National Forest in Montana, the Caribou-Targhee National Forest in Idaho, the Shoshone National Forest in Wyoming, and the public lands managed by the Bureau of Land Management in Montana and South Dakota. The Custer Gallatin also sits adjacent to tribal lands, state lands and private lands.

The plan area consists of approximately 3,039,000 acres of National Forest System lands (Federal) and 384,270 acres of non-Federal (private, state and tribal lands; USDA Forest Service Land Area Report, 2015).

Most of the non-Federal land ownership within and adjacent to the Custer Gallatin National Forest consists of intermingled privately owned lands that were established through "checkerboard" railroad grants, homestead grants, and patented mining claims, primarily in the late 1800s and early 1900s. In addition, some of the non-Federal lands, notably in the Big Sky and Bangtail Mountain areas, and also on the Sioux Ranger District in South Dakota, were established as a result of land exchanges, primarily from the 1950s to the 1990s.

The Congressionally designated Absaroka Beartooth Wilderness area, a large portion of the Lee Metcalf Wilderness area, the Cabin Creek Wildlife Management Area, and the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area are within the national forest boundary.

The Custer Gallatin National Forest is located within 10 Montana counties (Madison, Gallatin, Meagher, Park, Sweet Grass, Stillwater, Carbon, Rosebud, Powder River, and Carter) and Harding County in South Dakota. The largest portion of the plan area (48.5 percent) is located in Park County, Montana and the smallest portion (6 percent) is located in Harding County, South Dakota.

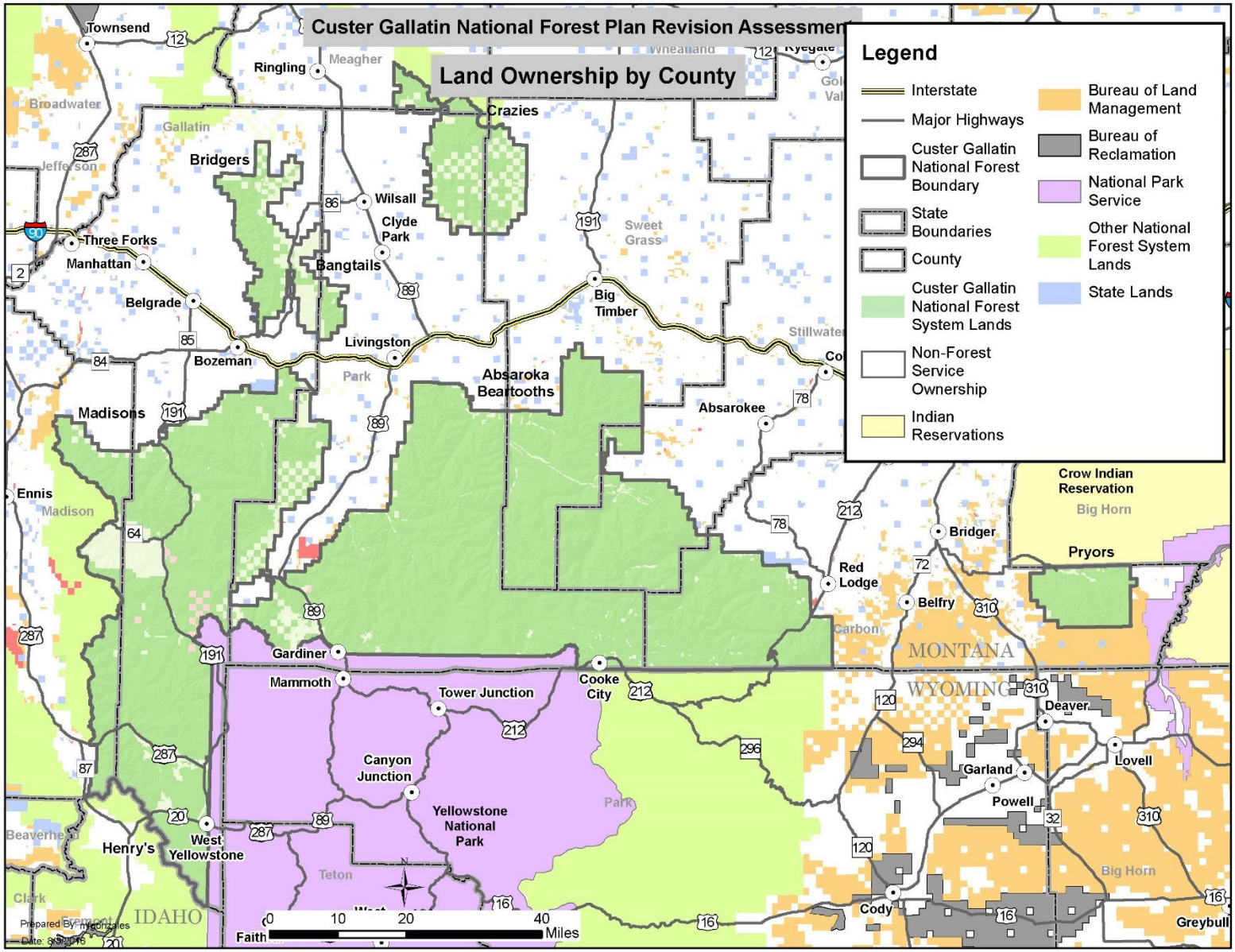

Figure 1. Land ownership by county, west side of Custer Gallatin National Forest

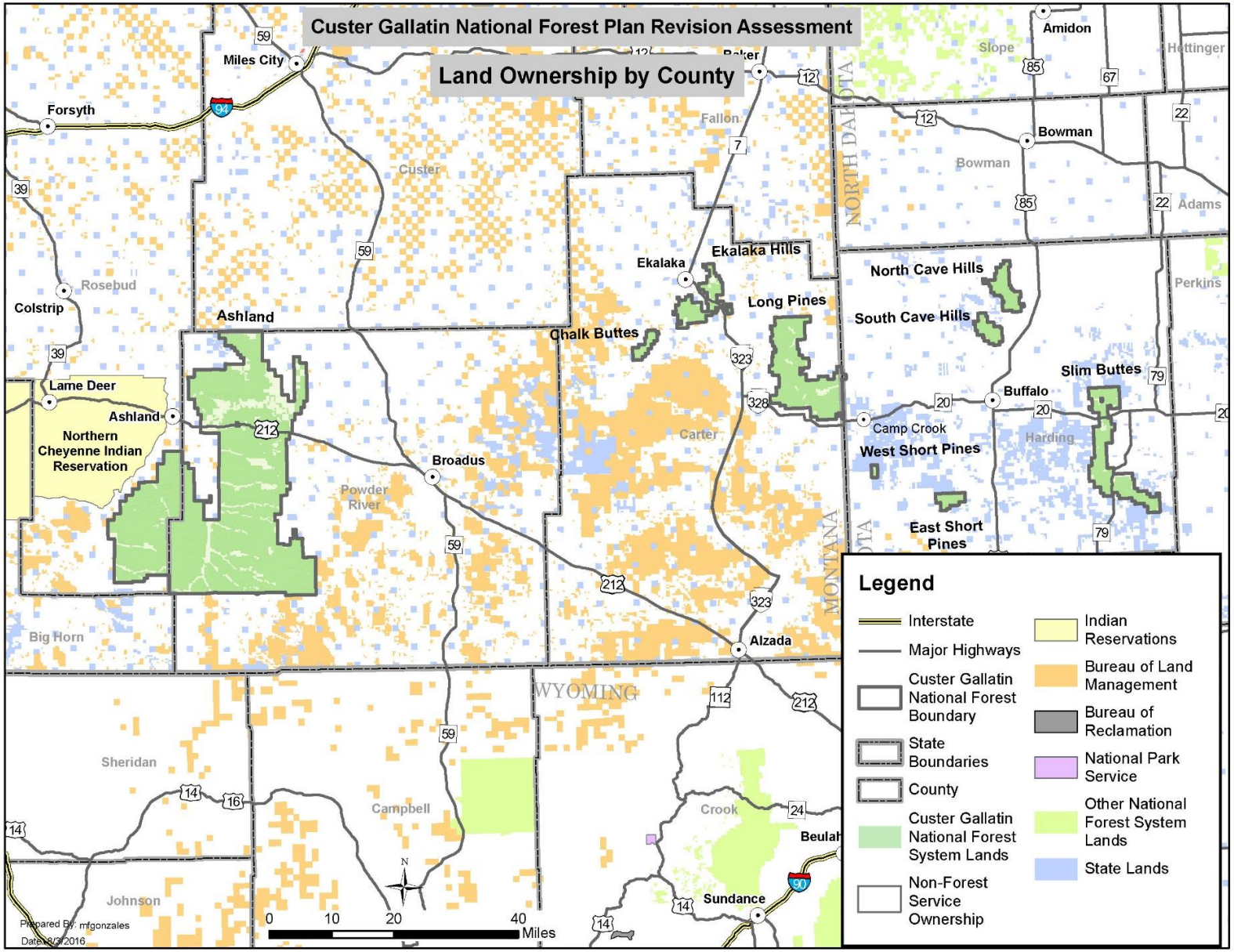

Figure 2. Land ownership by county, east side of Custer Gallatin National Forest

Land Status

Land status is defined as the ownership record of title to lands, including withdrawals, rights, and privileges affecting or influencing the use and management of National Forest System lands. For National Forest System lands, land status refers to the use or specific designations of a geographic area. This guidance can take the form of use restrictions (such as withdrawals or dedication) and encumbrances (such as rights-of-way acquired or granted, reservations, outstanding rights, partial interest, or easements). Land status differs from land ownership. Land ownership refers to the ownership of land and interests in land; whereas, land status refers to the legal character or condition of the land.

As established in 36 CFR 200.12, the Land Status Records System is the official repository for all realty records and land title documents for National Forest System lands. The Land Status Records System is maintained at the Forest Service Regional Office and is the electronic record for realty information backed up by hardcopy records maintained at the regional and national forest offices.

The Land Areas of the National Forest System Report is an annual publication that tracks National Forest System land ownership and provides statistics on land areas administered by the Forest Service. The report provides acreage figures for National Forest System lands in a variety of ways such as by forest, state, or for special designated areas like wilderness. The Land Areas Report can be found online at http://www.fs.fed.us/land/staff/lar/LAR2015/lar2015index.html.

The current proclaimed boundaries of the Custer Gallatin National Forest, and the intermingled public and private landownership pattern within it, are the product of a rich history of Federal laws and actions that originate with the U.S. Constitution, and include the Acquisition Era (Louisiana Purchase), the Disposal Era (Federal land grants), and the Reservation Era (creation of the forest reserves and national forests). Collectively, these early land disposal laws and actions significantly affected the land ownership and management of the Custer Gallatin National Forest and surrounding lands.

When the forest reserves and national forests were established in the early 1900s, substantial amounts of lands within these proclaimed boundaries had already been patented and conveyed to state and private ownership, mainly through grants to states, homestead acts, mining laws and railroad grants.

Land ownership status on National Forest System lands can change over time through land adjustments. Land adjustments involve transfer of fee title and result in a change of legal ownership. The primary methods used by the Forest Service and its cooperators to acquire and conserve private lands within and adjoining the Custer Gallatin National Forest are:

- Land exchange (land-for-land, and land-for-timber)
- Land purchase
- Land donation (voluntary donation by landowner)
- Conservation easements (acquire development rights on private land)

Each of these land adjustment methods has been applied extensively on the Custer Gallatin National Forest to acquire and conserve critical private lands, to improve access, and to improve land management effectiveness.

As a result of an effective land acquisition and land consolidation program, land ownership within the plan area has changed and improved considerably since the last planning cycle. Public land ownership, and access to public lands, has particularly improved during the past 30 years through completion of several large land purchases and land exchanges, mainly in the Gallatin Range, Madison Range, Absaroka Range, and the Bridger, Bangtails and Crazy Mountains.

More information about the primary land exchanges, land purchases, land donations and conservation easements completed on the Custer Gallatin National Forest since the forest plans were adopted follows.

Land Exchanges

On the Custer Gallatin National Forest, land exchange has been a widely used and effective tool to consolidate National Forest System lands and improve land management effectiveness. A few large and significant land exchanges have been legislated by Congress. However, most land exchanges have been done through the normal administrative process.

Since the last planning cycle, approximately 25 land exchanges have been completed on the Custer Gallatin National Forest. These land exchanges were undertaken in order to improve public access, to improve management effectiveness, and to acquire lands that provide valuable wildlife habitat and public recreation opportunities.

In the past 30 years, land exchanges have enabled the public acquisition and consolidation of approximately 100,000 acres of former private lands within the national forest, in exchange for approximately 33,000 acres of National Forest System lands and approximately $4 million in timber receipts and other receipts.

Two large-scale legislative land exchanges with Big Sky Lumber Company enabled public acquisition and consolidation of much of the former checkerboard railroad lands in the Gallatin, Madison, Absaroka and Bridger mountain ranges. The numerous administrative land exchanges completed since the last planning cycle have been relatively small in scale, often involving less than 1,000 acres.

The most significant land exchanges on the Custer Gallatin National Forest include the following projects, year completed, landowner, and private land acres added to the national forest:

- Six Mile Land Exchange, 1988, Oates and Peckinpah, 504 acres
- Richard Morgan (north Bridger Mountains) Land Exchange, 1992, 612 acres
- South Cottonwood (Bartosch), 1993, 23 acres – established legal access in South Cottonwood
- Gallatin Range Consolidation and Protection Act (legislative, P.L. 103-91, 1993), also known as “Gallatin I,” 1993, BSL, 37,800 acres
- Gallatin Land Consolidation Act of 1998 (legislative, P.L. 105-267), also known as “Gallatin II,” Big Sky Lumber Company and other land owners, 55,100 acres
- Goat Creek Land Exchange, 1999, Spear Lazy U Ranch, 1,304 acres
- Brackett Creek Land Exchange (Bridger Mountains), 2006, 683 acres

- Bennett Creek Land Exchange (Crazy Mountains), 2007, 410 acres
- Bear Canyon/Trail Creek (Gallatin Range) DePuy Ranches, 2012, 766 acres

Land Purchases

Direct purchase of private land inholdings from willing landowners at appraised value has been a very important tool for the Custer Gallatin National Forest. Most purchases are designed to protect critical wildlife and fisheries habitat and wetlands, and to improve access for recreational opportunities. Acquisition of wilderness inholdings has also been a small but important part of the purchase program.

Land purchases on this national forest have been very high profile and effective, in part due to the emphasis that Custer Gallatin leaders place on land conservation, and in part due to the deeply-rooted and broad-based public support for public lands from our communities, counties, the State, and national organizations. Most of the funding for direct purchases on the Custer Gallatin has been provided by Congress through the Land and Water Conservation Fund. Other funds voluntarily contributed by conservation partners have also been critical in the purchase program on the Custer Gallatin National Forest.

Since the last planning cycle, the most significant land purchases on the Custer Gallatin National Forest include the following projects, year completed, landowner, and acres added to the Forest:

- Northern Yellowstone Elk Project; 1989-1993; 11 owners; upper Yellowstone; Rocky Mountain Elk Foundation; 8,700 acres
- Galt (71 Ranch); 1991-1993; northern Crazy Mountains; 19,900 acres
- South Cottonwood; 1992; Gallatin Range; Plum Creek Timber Co.; 2,500 acres
- City of Bozeman; 1993; upper Bozeman Creek; Gallatin Valley Land Trust; 955 acres
- Porcupine/South Cottonwood; 1994-1996 (Big Sky Lumber Co.) upper Gallatin; Rocky Mountain Elk Foundation and Montana Fish, Wildlife and Parks; 8,100 acres
- New World Mine; 1996-1998 Crown Butte Mines; 694 acres and a conservation easement
- Royal Teton Ranch; 1997-2003; upper Yellowstone; Rocky Mountain Elk Foundation; National Park Service; 6,800 acres + conservation easement
- Taylor Fork; 1999; (Big Sky Lumber Company) upper Madison; Rocky Mountain Elk Foundation; 4,795 acres
- Taylor Fork; 2001-2003 (320 Ranch); upper Madison; Trust for Public Land; 3350 acres
- Bozeman Pass; 2006-2008; east of Bozeman; Trust for Public Land; 640 acres + conservation easement
- Reeb Estate; 2009-2010; north of Cooke City; Trust for Public Land; 1,469 acres
- Bloom Creek (Gay Ranch); 2011; southeast of Ashland; 154 acres
- Chalk Buttes (Molstad); 1997; southwest of Ekalaka; 187 acres
- Cave Hills Cattle Co.; 2000; Harding County South Dakota; 480 acres
- Schwend; 2005; Pryor Mountains; 960 acres

Land Donations

The donation of private land (in fee title) to the United States for addition to the Custer Gallatin National Forest, has been a relatively small but important part of the national forest's overall landownership adjustment program. Some very critical parcels of land have been donated by private parties and conservation organizations in recent years.

Since the last planning cycle, the most significant land donations on the Custer Gallatin National Forest include the following projects, showing the year completed, land donor, and amount of land added to the national forest:

- Hebgen Lake; 1998; Red Creek Ranch; 23 acres
- Eightmile Creek; 2000; Ken Wilson; 290 acres
- Goat Creek; 2001 Spear Lazy U Ranch; 228 acres
- Spanish Peaks 2003; TM Land Partners; 167 acres
- Taylor Fork; 2003; Section 17; Trust for Public Land; 101 acres
- Raynolds Pass; 2005; Montana/Idaho divide; The Nature Conservancy; 143 acres
- Bozeman Pass; 2008; Trust for Public Land and Gallatin Valley Land Trust; 147 acres
- Sourdough Canyon Trailhead; 2013; Gallatin Valley Land Trust; 6 acres

Conservation Easements

Conservation easements are another valuable tool to protect critical lands within and adjoining the Custer Gallatin National Forest. A conservation easement is a partial interest in real property. In granting a conservation easement, the landowner retains ownership of the property, but conveys certain development rights to another party, usually in perpetuity. The party that holds the easement (whether the Forest Service or a non-profit conservation organization) has a long-term responsibility to administer and monitor that easement, and to ensure compliance with its terms and conditions. Each conservation easement is tailored to fit a specific situation and specific parcel of land. Typically the overall purpose of granting a conservation easement is to protect open space, including wildlife habitat, visual quality and traditional land uses such as ranching.

The Forest Service preference is for qualified (IRS 501-3C) local conservation organizations, such as Montana Land Reliance, Rocky Mountain Elk Foundation, and Gallatin Valley Land Trust to hold and administer conservation easements, rather than the Forest Service. Private landowners within the boundary of the Custer Gallatin National Forest have granted numerous conservation easements to various non-profit conservation organizations and the State of Montana. The Forest Service has played an active role in referring landowners to the appropriate conservation groups, and in supporting the grant of conservation easements.

Within the Custer Gallatin National Forest, conservation easements that have been acquired by the United States and that are currently administered by the Forest Service include Frenchy's Meadows in the A-B Wilderness, Royal Teton Ranch - Devil's Slide, Strong (Travertine Quarries), and Montana Department of Natural Resources in Hyalite Canyon.

Tabular Summary of Land Adjustments

Table 1 shows the approximate total acres of land acquired by the United States and added to the Custer Gallatin, and it also shows the approximate acres of land conveyed to private ownership since the current forest plans were signed.

Table 1. Acres of land acquired and conveyed between 1986 – June 2016

Method	Status	Acres
Donation	Acquired	1,473.56
Exchange	Acquired	2,492.53
Interchange	Acquired	5.03
Purchase	Acquired	74,445.58
Exchange	Conveyed	32,604.05
Interchange	Conveyed	2.52
Mining Law	Conveyed	2,194.38
Quitclaim	Conveyed	695.89
Exchange	Reserved Public Domain	89,608.31
Transfer	Reserved Public Domain	1,036.91
Acres Acquired (includes Exchange Reserved)		**168,025.01**
Acres Transferred to Forest Service from BLM		**1,036.91**
Acres Conveyed		**35,496.84**

The land status and ownership maps shown Figure 3 through Figure 7, show the lands acquired by the United States and added to the Custer Gallatin from 1984 through 2016, and the lands conveyed to other non-Federal ownership.

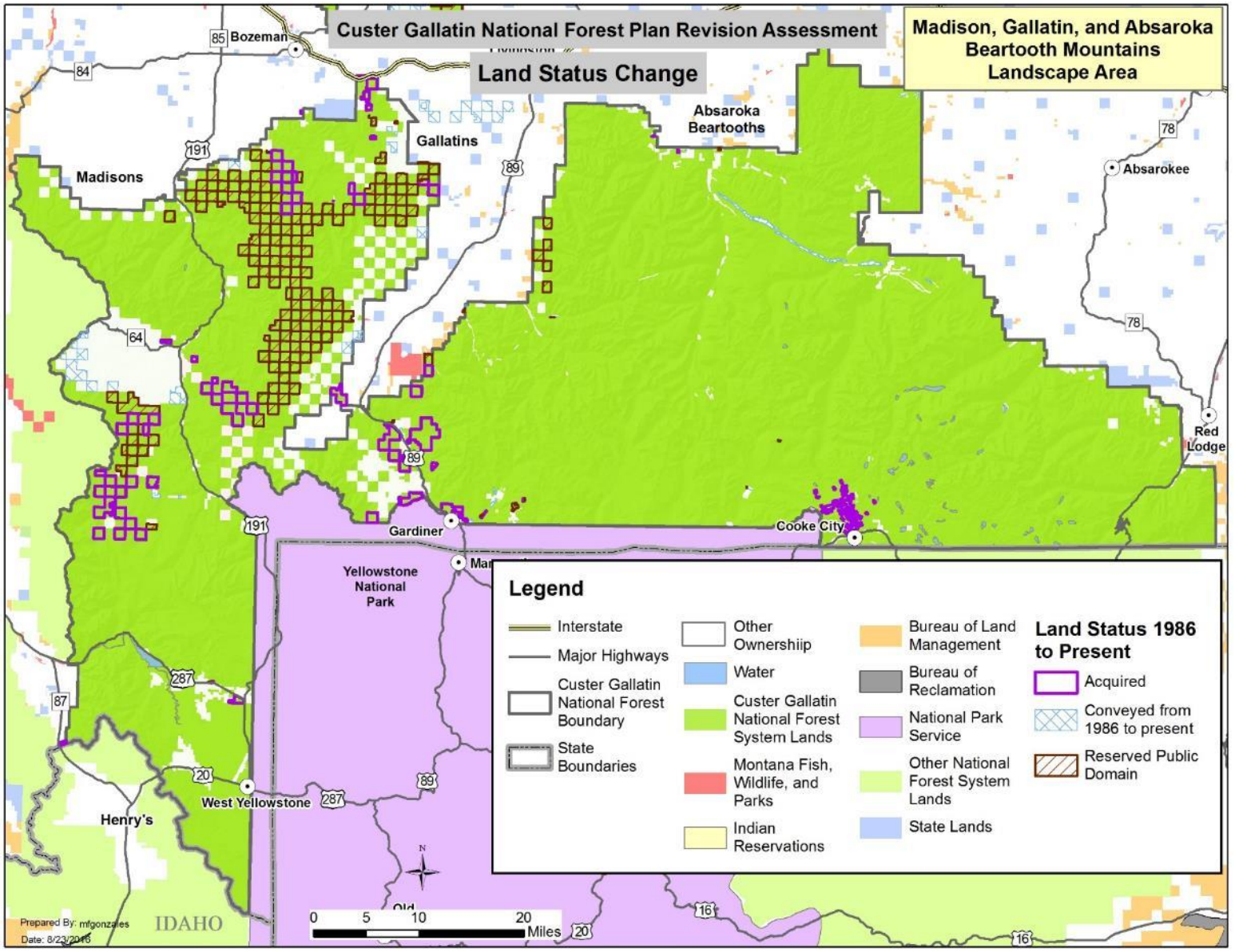

Figure 3. Land status and ownership; Madison, Henrys Lake, Gallatin, Absaroka and Beartooth Mountains

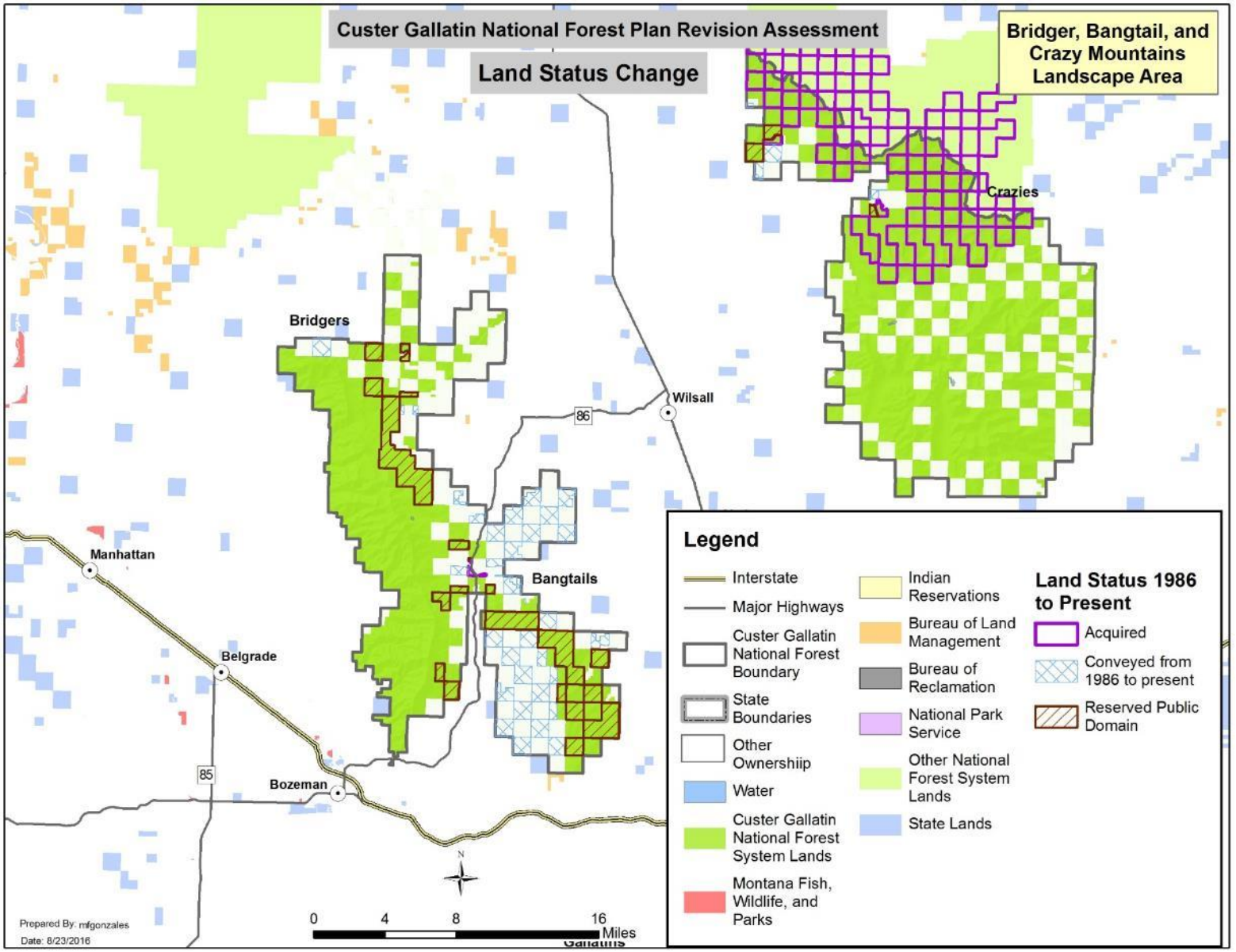

Figure 4. Land status and ownership; Bridger, Bangtail, and Crazy Mountains

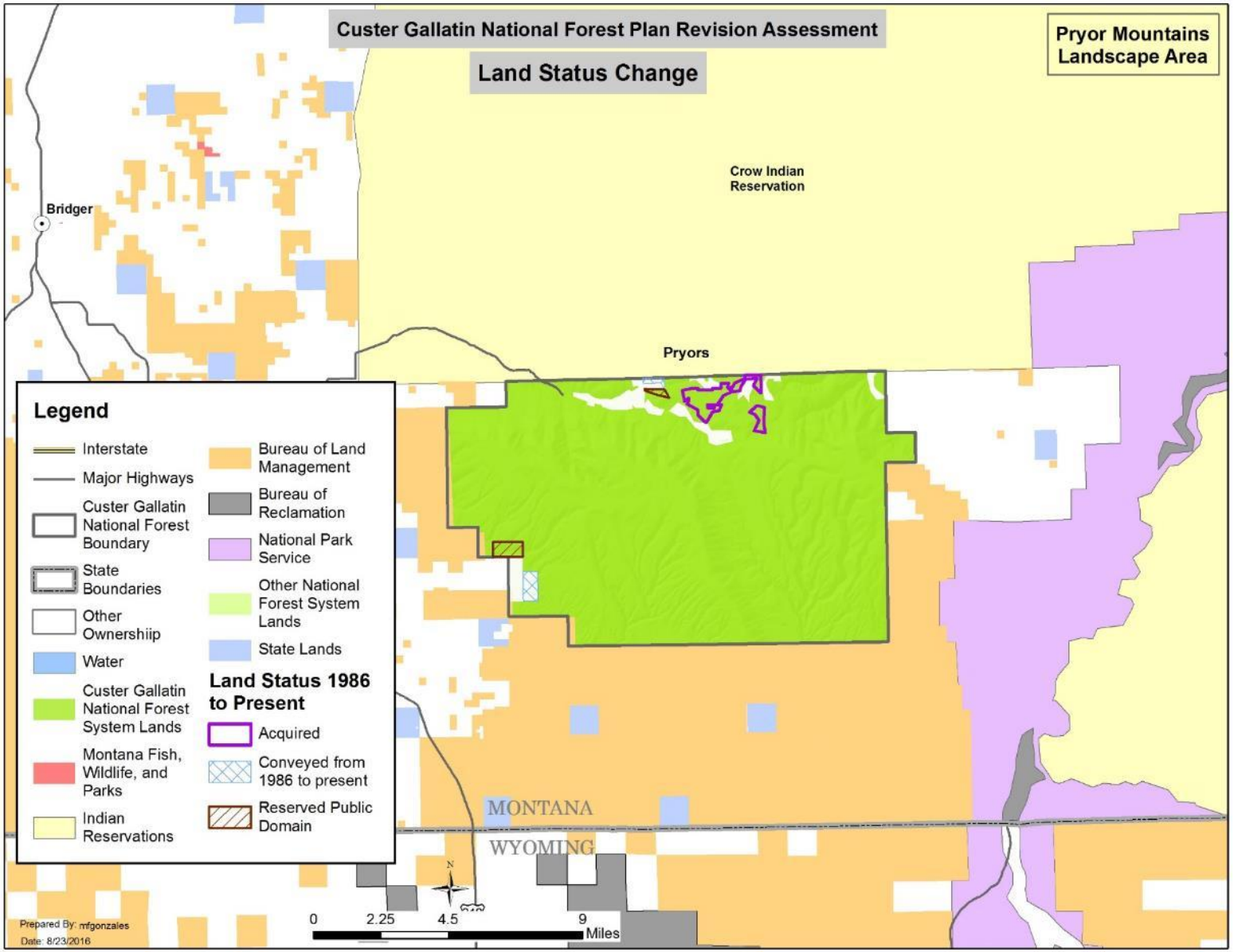

Figure 5. Land status and ownership; Pryor Mountains

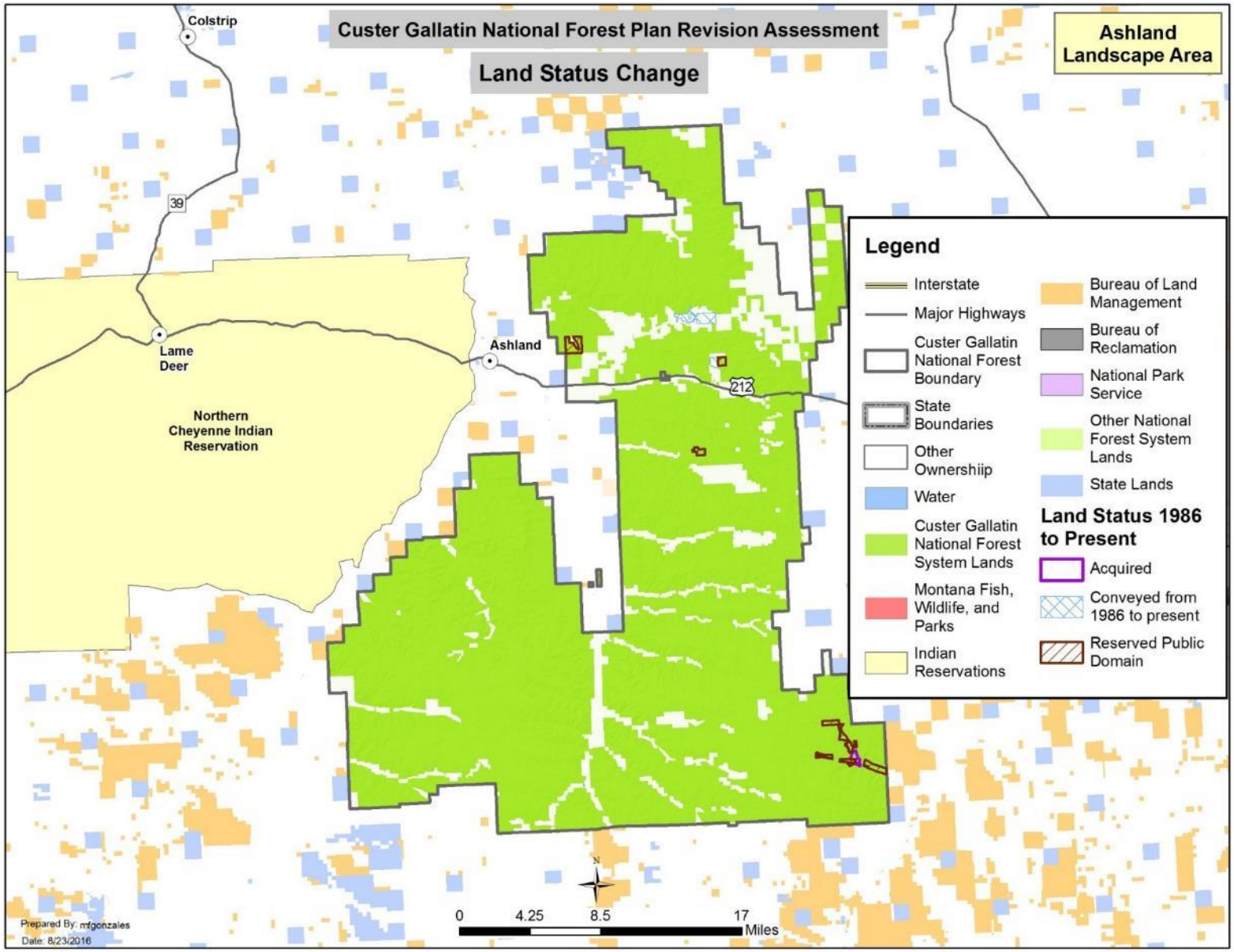

Figure 6. Land status and ownership; Ashland District

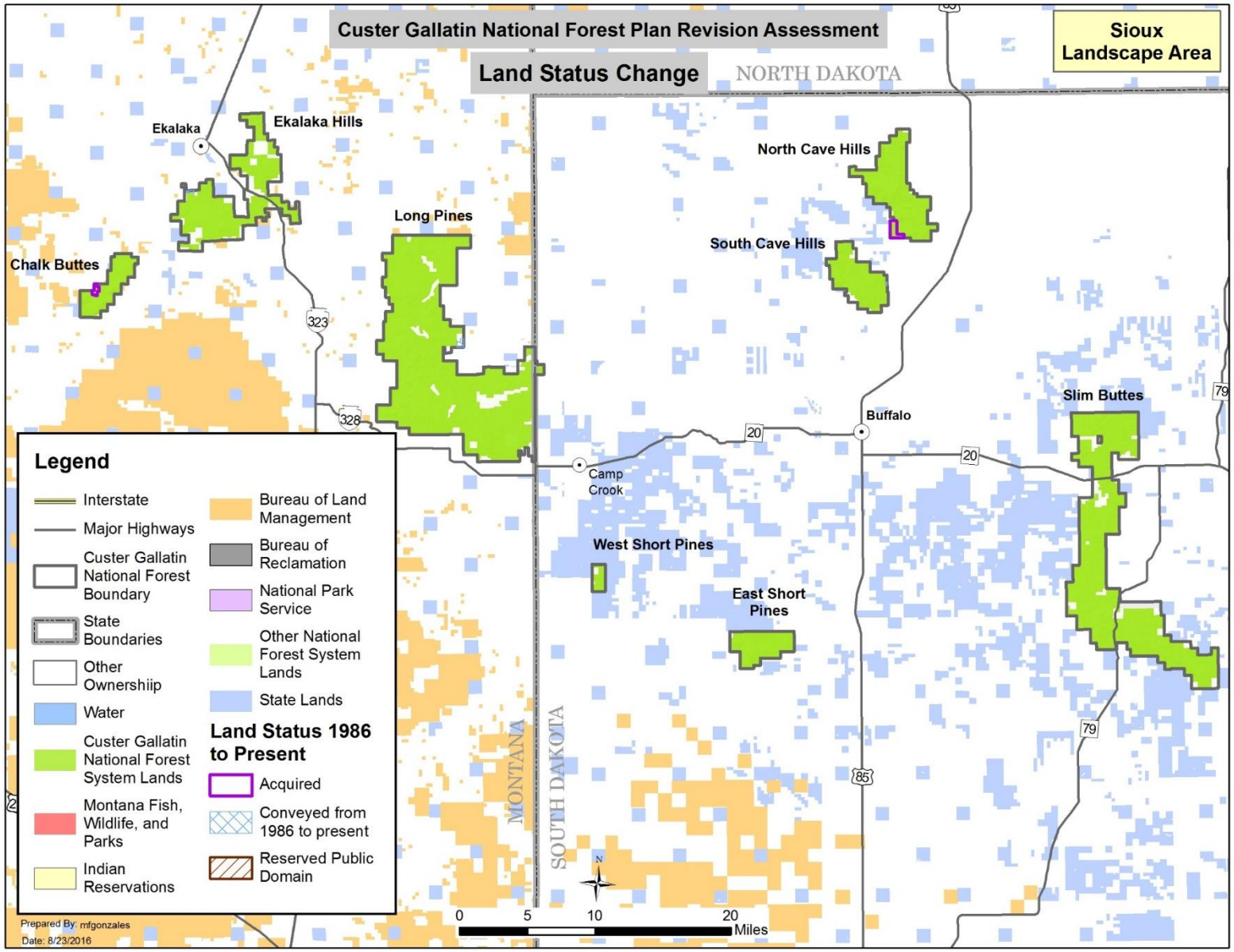

Figure 7. Land status and ownership; Sioux District

The remaining areas containing substantial intermingled ownership and checkerboard ownership are in the Crazy Mountains, east side of the Gallatin Range, north Bridger Mountains, Bangtail Mountains, north side of Spanish Peaks, the Cinnabar Basin, Tom Miner and Mol Heron areas, and near Jardine, Cooke City and Hebgen Lake. It is anticipated that the primary emphasis for this national forest's land adjustment program for the next 20 years will be within these landscape areas. In addition, acquisition of Absaroka-Beartooth Wilderness inholdings will remain a priority for the Custer Gallatin in the future. Also, on the Sioux and Ashland Ranger Districts, some excellent opportunities exist to work with private landowners to improve landownership patterns. However, the Forest Service will continue to respond to good opportunities to make beneficial land purchases, donations and other land adjustments, wherever those opportunities may arise.

Land Uses

Land use is the current use of the land, such as residential, commercial, industrial or agricultural use for private lands, and the current land allocations and the uses permitted in existing land management plans for National Forest System or other public lands.

In the past several decades, the conversion of open space and agricultural land to residential development has occurred at a rapid pace in many parts of the U.S. The popularity of exurban lot sizes (lots between 1.7 and 40 acres in size) in much of the country has exacerbated this trend (low density development results in a larger area of land converted to residential development). This pattern of development reflects a number of factors, including demographic trends, the increasingly "footloose" nature of economic activity (the economic activity can be conducted virtually and is not tied to a specific geographical location or employment site), the availability and price of land, and preferences for homes on larger lots. These factors can place new demands on public land managers as development increasingly pushes up against public land boundaries. For example, human-wildlife conflicts and wildfire threats may become more serious for public land managers where development occurs adjacent to public lands. In addition, there may be new demands for recreation opportunities and concern about the commodity use of the landscape (timber, agriculture, and mining)[excerpted from EPS-HDT].

Population growth is often a key metric used to describe effects on natural resources. However, in most geographies land consumption is outpacing population growth. In these areas, land consumption (the area of land used for residential development) is strongly related to wildlife habitat loss and the degree to which public lands are bordered by residential development. The impact of residential development on ecological processes and biodiversity on surrounding lands is widely recognized.

Figure 8 shows most counties in the analysis area had a substantial increase in residential acreage since 2000. For the 11-county area, residential acreage increased 89 percent. The county with the most growth in residential acreage is Madison County with a 248 percent increase and Harding County showing the smallest increase at 7.1 percent.

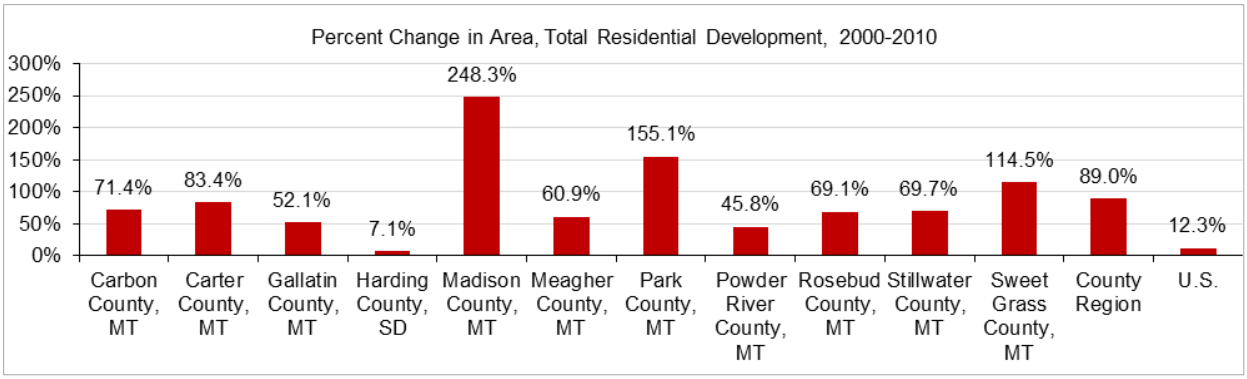

Figure 8. Percent change in residential development land area

Data Sources: Theobald, DM. 2013. Land use classes for ICLUS/SERGoM v2013. Unpublished report, Colorado State University.

Land Use Policies

The Custer Gallatin National Forest is currently managed under two separate forest plans; the Custer forest plan (1986) and the Gallatin forest plan (1987). The plans guide natural resource management activities and establish management standards for the Custer Gallatin National Forest. Forest plan direction includes goals, objectives, standards, management practices and monitoring and evaluation requirements. The Custer Gallatin is currently in the process of revising the two plans into one comprehensive plan.

Management of National Forest System lands on the Custer Gallatin National Forest occurs in the context of other strategic direction, including Forest Service national strategic goals, the Forest Service Chief's emphasis areas, Forest Service Northern Region emphasis areas, and inter-agency goals for the Greater Yellowstone Area. Adjacent Federal agencies and local governments have management plans that provide direction and guidance for lands under their jurisdictions.

Federal Agency Plans

Federal agencies adjacent to the Custer Gallatin National Forest have separate management plans for their jurisdictions. It is important that the agencies are working together to address similar management issues of many of their resources. Table 2 provides a list of Federal agencies within and adjacent to the plan area and website links to the agencies planning document.

Table 2. Federal agency land use planning summary

Federal Agency	Management Plan
Beaverhead-Deerlodge National Forest Dillon, Montana	2009 Land and Resource Management Plan. Available online at: http://www.fs.usda.gov/main/bdnf/landmanagement/planning
Helena -Lewis and Clark National Forest Helena, Montana	1986 Lewis and Clark National Forest Plan. Available online at: http://www.fs.usda.gov/detailfull/lcnf/landmanagement/?cid=STELPRDB5409100&width=full 1986 Helena National Forest Plan. Available online at: http://www.fs.usda.gov/main/helena/landmanagement/planning Helena-Lewis & Clark Forest Plan Revision is currently underway. http://www.fs.usda.gov/detailfull/helena/landmanagement/planning/?cid=stelprd3798801&width=full
Caribou-Targhee National Forest Idaho Falls, Idaho	2003 Caribou Revised Forest Plan and 1997 Targhee Forest Plan Available online at: http://www.fs.usda.gov/detail/ctnf/landmanagement/planning/?cid=STELPRDB5116356
Shoshone National Forest Cody, Wyoming	2015 Shoshone Land Management Plan. Available online at: http://www.fs.usda.gov/detail/shoshone/landmanagement/planning/?cid=stelprdb5199919
Yellowstone National Park	2014 Foundation Document Available online at: https://www.nps.gov/yell/learn/management/index.htm 1974 Park Master Plan available from Yellowstone National Park
Bureau of Land Management Billings, Montana	2015 Billings and Pompeys Pillar National Monument Resource Management Plan. Available online at: http://www.blm.gov/mt/st/en/fo/billings_field_office/rmp.html
Bureau of Land Management Butte, Montana	2009. Butte Resource Management Plan Available online at: http://www.blm.gov/mt/st/en/fo/butte_field_office/rmp/rod.html
Bureau of Land Management Dillon, Montana	2006 Dillon Resource Management Plan Available online at: http://www.blm.gov/mt/st/en/fo/dillon_field_office/rmp.html
Bureau of Land Management Miles City, Montana	2015 Miles City Resource Management Plan Available online at: http://www.blm.gov/mt/st/en/fo/miles_city_field_office/rmp.html
Bureau of Land Management South Dakota	2015 South Dakota Resource Management Plan Available online at: http://www.blm.gov/mt/st/en/fo/south_dakota_field/rmp.html

Tribal Government Plans

The Crow Indian Reservation is adjacent to and located north of the Pryor Mountain land unit of the Beartooth Ranger District. The Northern Cheyenne Indian Reservation is west of the Ashland Ranger District. The adjacency of tribal and National Forest System lands provides opportunities for coordination and collaboration of resource management issues.

Local Government Plans

Local land use decisions can affect the health, diversity and productivity on the Custer Gallatin National Forest. County land use plans describe local government goals and objectives for land management and provide opportunities for areas of coordination between the Forest Service and local government. In the 2007 “Open Space Conservation Strategy,” the Forest Service

made it a priority to participate in community growth planning to reduce ecological impacts and wildfire risks. The Custer Gallatin National Forest is working to include local communities in National Forest System land planning to help coordinate local land use and the forest plan revision.

In 1999, Montana passed a "growth policy" statute (MCA 76-1-601 through 76-1-606) that changed the terms "master plan and "comprehensive plan" to "growth policy" and established minimum requirements for growth policies. The 10 counties in Montana with Federal lands within the Custer Gallatin National Forest boundary have each adopted a county growth policy. Harding County in South Dakota has a comprehensive plan that provides the overall vison and goals.

Montana county growth policies and the Harding County, South Dakota Comprehensive Plan include goals and objectives that apply to the private lands within the respective jurisdictions. Montana growth policies include:

- a description of existing characteristics and projected trends for topics such as land uses, population, housing needs, economic conditions, local services, public facilities, and natural resources;
- community goals and objectives and the tools to achieve them;
- a strategy for development, maintenance, and replacement of public infrastructure;
- an implementation strategy;
- an explanation of decision making and public hearings for proposed subdivisions;
- an evaluation of the potential for fire and wildland fire; and
- an explanation of how the governing body will coordinate and cooperate with other jurisdictions.

While each growth policy is unique to its particular jurisdiction, the 10 applicable growth policies typically include goals and objectives related to land use and development, public services, transportation, housing, water resources, and natural resources. These plans often include goals and/or objectives for coordination with State and Federal agencies including the Forest Service.

South Dakota county comprehensive plans protect and guide the physical, social, economic, and environmental development of the county; to protect the tax base; to encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provisions of transportation, roads, water supply, drainage, sanitation, education, recreation, or other public requirements; to lessen governmental expenditure; and to conserve and develop natural resources.

The Harding County South Dakota Comprehensive Plan outlines goals and objectives related to quality of life, land use, natural resources and economic development.

Planning regulations for most of the counties are available online. Table 3 provides a list of counties included in the plan area and website links to the county planning document.

Table 3. County land use planning summary; populations from 2014 census

County	Montana Growth Policy
Madison County County Seat: Virginia City Population: 7820	2012 Growth Policy. Available online at:http://www.cgwg.org/wp-content/uploads/2015/12/Madison-Co-Growth-Policy.pdf
Gallatin County County Seat: Bozeman Population: 97,308	2003 Growth Policy. Available online at: http://gallatincomt.virtualtownhall.net/public_documents/gallatincomt_plandept/Plans&Policies/GrowthPolicyComplete05.pdf
Park County County Seat: Livingston Population: 15,880	2006 Growth Policy. Available online at: http://www.parkcounty.org/pdfs/Pln/GrowthPolicy.pdf
Meagher County County Seat: White Sulfur Springs Population: 1853	2014 Growth Policy. Available online at: http://www.meaghercounty.mt.gov/mc_boards/Meagher%20County%20Growth%20Policy%20Plan%20draft1.pdf
Sweet Grass County County Seat: Big Timber Population: 3665	2009 Growth Policy. Available online at: http://sweetgrasscountygov.com/wp-content/uploads/2014/03/Sweet-Grass-County-Growth-Policy-Plan-Adopted-2009.pdf
Stillwater County County Seat: Columbus Population: 9290	2007 Growth Policy. Available online at: http://www.cgwg.org/wp-content/uploads/2015/12/Stillwater-Co-Growth-Policy.pdf
Carbon County County Seat: Red Lodge Population: 10,399	2009 Growth Policy. Available online at: http://co.carbon.mt.us/wp-content/uploads/2016/01/2009-GROWTH-POLICY.pdf
Rosebud County County Seat: Forsyth Population: 9326	2013 Growth Policy. Available online at: http://www.rosebudcountymt.gov/COUNTY_PLANNER/2013%20growth%20plan.pdf
Powder River County County Seat: Broadus Population: 1783	2012 Growth Policy. Available online at: http://www.cgwg.org/wp-content/uploads/2015/12/Powder-River-Co-Growth-Policy.pdf
Carter County County Seat: Ekalaka Population: 1169	Growth Policy Not available online. Contact the Clerk and Recorders office to get a copy.
County	**South Dakota Comprehensive Plan**
Harding County County Seat: Buffalo, South Dakota Population: 1250	2012 Comprehensive Plan Not available online. Contact the county Auditor's office to get a copy.

Special Uses

Special uses management is a major activity within the National Forest System lands program. Title 36, Code of Federal Regulations, Section 251.50(a) defines special uses as:

> All uses of National Forest System land, improvements, and resources, except those provided for in the regulations governing the disposal of timber (Part 223) and minerals (Part 228) and the grazing of livestock (Part 222), are designated "special uses" and must be approved by an authorized officer.

Special use authorizations provide the authority for use of National Forest System lands for a wide variety of purposes (Forest Service Manual [FSM] 2701) including facilities and services necessary for public health, welfare, safety, convenience and national security, in addition to uses of a private nature. However, policy is to give preference to uses that offer public service or benefits over single purpose or private uses. Proposals for new uses are carefully screened to determine if the proposed use is in the public interest, if the use can be located on non-Federal lands.

There are over 150 different types of special uses currently categorized by the Forest Service. The Forest Service issues special use authorizations (permits, easements and leases) to allow private or government entities to occupy or use National Forest System lands. Special use authorizations are granted for specified periods, generally not exceeding 30 years, but often with provisions for renewal (for example, facilities with substantial financial investment such as recreation residences or power transmission lines). Shorter term and one-time authorizations are also issued (research and recreation events).

Special use authorizations fall into two broad categories, recreation special uses and non-recreation (lands) special uses. Recreation special uses include recreational facilities open to the public such as ski areas and resorts, as well as services such as outfitting and guiding and recreation events. Recreation special uses also include private uses, such as recreational residences and organization camps. Non-recreation special uses include uses such as water transmission lines, communication facilities, research, and road and utility rights-of-way. The objectives of the Forest Service special uses program are to manage the use and occupancy of National Forest System lands in a manner that protects natural resource values, public health and safety, and is consistent with forest plans.

The Forest Service uses the Special Uses Data System (SUDS) to create, administer and track special use authorizations. The data in SUDS is supported by hard copy files at ranger district and forest supervisor offices.

The Custer Gallatin National Forest currently administers 850 special use authorizations (477 recreation uses and 373 land uses). Recreation permits include outfitter-guide uses, recreation events, recreation residences and other uses that are further described in the Recreation Report.

There are 58 different types of lands uses (non-recreation) authorized by permits, leases, and easements on the Custer Gallatin National Forest ranging from research activities to more extensive uses such as water systems, communications facilities, road, utilities, and electrical and gas (energy) transmission rights-of-way. The majority of land use authorizations are issued for transportation purposes (highways and roads for private land access) and water systems serving private property (ditches and water lines). Table 4 summarizes the types of use on the Custer Gallatin and the number of authorizations issued.

The growing demand for special uses of National Forest System lands and the lack of resources (staff and funding) to properly administer the special uses program are issues that the Custer Gallatin continues to struggle with.

Table 4. Special use authorizations

Type of Use	Number of Authorizations
Agriculture	7
Community Services and Public Information	16
Research, Training, Cultural Resource Survey, Feasibility	18
Industry	13
Energy and Gas Transmission	22
Rights of Way (Roads and Trails)	156
Communication Uses	40
Water	101
Recreation Residences	292
Outfitter and Guide Services	142
Other Recreation Uses	43

Data pulled from SUDS May 2016

Access Patterns

Lack of reasonable legal access to National Forest System lands results from historic land ownership patterns (private lands in the valleys, public lands in the mountains, intermingled ownership from railroad grants, homestead acts, and mining patents), and more recently from changes in private land ownership and changing attitudes toward public access through private lands.

Longstanding existing access facilities (roads and trails) that have historically provided public access to National Forest System lands are being closed by private landowners at an increasing rate. In some situations, local county and State road agencies have been reluctant to defend the public status of many historic roads.

Nationally, it is estimated that 17.3 million acres, or approximately 10 percent, of all National Forest System lands have no legal right of public access. The access problem is most acute in the West. With growing emphasis on recreation on public lands, and fewer opportunities on the private lands, many individuals and interest groups want the Forest Service to provide more dispersed access to public lands and to protect the historic access routes. There is also considerable public resentment over the issue of exclusive use, where adjoining landowners and/or outfitters may enjoy private access to the national forest; however, no legal access exists for the general public.

Longstanding Forest Service policy is to acquire and maintain permanent road and trail rights-of-way (access easements) to assure the protection, administration and use, of the National Forest System lands and resources. On the Custer Gallatin National Forest, access is a key issue. The policy for the land adjustment program (exchange and purchase) is to acquire key wildlife habitat and recreation lands, and to improve legal access and management effectiveness through land acquisition.

The primary methods used by the Forest Service to acquire and protect access to National Forest System lands are land adjustments (land exchange and purchase), cooperative or reciprocal access arrangements, direct negotiation, establishing existing rights through negotiation or legal action, and condemnation.

Access was the third most important issue identified in the development of the Gallatin forest plan (1987) based on public comments received at that time. Public access to the national forest remains an important public concern for many people today, particularly for recreation users.

The Gallatin Travel plan identified 46 locations where public access to the national forest boundary was inadequate, involving about 21 percent of the national forest land base. In addition, situations exist within the Custer Gallatin where access across private ownership on existing system trails and roads is not secure because no recorded easements exist. Private land within and adjacent to the Custer Gallatin continues to be sold, and often subdivided, by owners who may not support or recognize the historic public access through their lands. As a result, numerous trails on private land are gradually being lost or deteriorated through subdivision, closure or obliteration.

The Custer Gallatin's land purchase and exchange programs have been very effective in resolving and securing legal access to existing roads and trails within the national forest. The Custer Gallatin's reciprocal access program has also been effective in securing legal access to existing roads and trails across private lands, and in providing legal access across National Forest System lands to private lands.

The Center for Western Priorities (2013) reports that in Montana approximately 1,955,145 acres of land managed by the Forest Service and Bureau of Land Management do not have public access. Of the western states reviewed in this report, Montana has the most inaccessible acres of Federal lands. Of the nearly 2 million acres, 37 percent are inaccessible because the public cannot cross corners, while 63 percent are fully landlocked by private land. The report encourages Federal agencies to take a more comprehensive approach to identifying closed-off public lands and enhancing access (Center for Western Priorities 2013).

Primary Methods to Secure Access

The primary tools and methods available for use by land managers to secure and protect access rights to the Federal lands are summarized below.

1. Land Exchange

Land exchange has been the single most important tool used to secure public access rights to National Forest System lands since the previous forest plans were adopted. Potential exchanges are carefully designed to improve access to National Forest System lands, and also to accommodate private access needs. The exchange agreement is negotiated and developed to include acquisition of key land parcels, and easements for existing roads and/or trails across the proponent's land which provide access to National Forest System land. Priority is given to those exchange proposals which clearly enhance access and improve long-term management of National Forest System lands. Exchange proposals that diminish public access are not considered by the Custer Gallatin National Forest.

Since the last planning cycle, the most notable examples of obtaining and protecting legal access rights to National Forest System lands on the Custer Gallatin through land exchanges include:

- South Cottonwood (Bartosch) Land Exchange
- Gallatin I and Gallatin II Land Exchange (Big Sky Lumber Company)

- Pine Creek (Hoppe) Land Exchange
- Bear Canyon/Trail Creek (DePuy) Land Exchange
- Six Mile Land Exchange
- Wapiti (Kelsey) Land Exchange
- Brackett Creek Land Exchange

2. Land Purchase

Direct purchase of private (mostly checkerboard) lands from willing owners within the national forest is a very important tool used to secure public access. Most purchases are designed to protect critical wildlife and fish habitat, to acquire wilderness inholdings, and to enhance public access. Since the forest plans were adopted, the Custer Gallatin has purchased over 36,000 acres of private inholdings.

Since the last planning cycle, the most notable examples of obtaining and protecting legal access rights to National Forest System lands on the Custer Gallatin National Forest through land purchases include:

- Galt (71 Ranch) purchases in the northern Crazy Mountains
- Northern Yellowstone Elk Herd Project purchases near Gardiner (Rocky Mountain Elk Foundation)
- Porcupine purchases (Big Sky Lumber Company) in upper Gallatin
- Taylor Fork (BSL and 320 Ranch) purchases (Rocky Mountain Elk Foundation and Trust for Public Land) in the upper Madison
- Royal Teton Ranch land purchases in the upper Yellowstone and in North Dry Creek (Rocky Mountain Elk Foundation)

3. Reciprocal Access Agreements

The Custer Gallatin National Forest makes effective use of cooperative agreements with other public agencies and reciprocal access provisions with intermingled private landowners. The basic principal here is that since both "owners" often need legal access to their respective lands, it may be mutually beneficial to exchange reciprocal access rights.

From the 1950s to the 1980s, this principal was applied in the Forest Road and Trail Act cost-share road program with Burlington Northern and Plum Creek Timber Company. Several road easements to National Forest System land in the Bridgers and Gallatin Range were secured under these agreements (Fairy Lake, Jackson, Stone, Olson and Willow Creek Roads in the Bridgers, and Hyalite, Rock Creek and Little Bear Roads in the Gallatin). Although the cost-share program no longer exists on the national forest, the easements remain in effect and provide vital access today.

An important current use of this principal is "reciprocity", as authorized by the Federal Land Policy and Management Act of 1976 (FLPMA) and 36 CFR 251.63. The Forest Service may condition requests for access (typically a road) across National Forest System lands with a provision that the landowner grant reciprocal road or trail access to the U.S. across their private land.

Since the last planning cycle, the most notable examples of obtaining legal access rights to National Forest System lands on the Custer Gallatin National Forest through the use of reciprocal agreements with landowners include:

- Lightning Creek Trail 7, Taylor Fork, Trapper's Cabin Ranch
- Horsethief Mountain Trail 523, north Bridgers, Morgan Ranch
- Taylor Fork – Reciprocal Road Easements, Big Sky Lumber Company

Various cooperative agreements also exist between the public land agencies (Federal, State and local) to facilitate the exchange of rights-of-way across intermingled public lands. Although used infrequently, the Custer Gallatin has secured some important road easements from the City of Bozeman (now managed as trails) and a trail easement from the State in Sypes Canyon on the west side of the Bridgers. In recent years, the Forest Service has also secured two new access facilities (rights-of-way) from the BLM under a national cooperative agreement. One BLM right-of-way is for Face of the Mountain Trail 7 near Red Lodge. The second is for Powerline Road 2500, which provides access to National Forest System lands in the Pryor Mountain area.

4. Direct Negotiations with Landowners to Secure Easements

The Custer Gallatin National Forest has effectively negotiated with landowners specifically to obtain legal access rights for many years, and has secured several permanent easements by purchase or donation. In recent years, the Custer Gallatin has placed more emphasis on land acquisition and reciprocal agreements to enhance public access, and less emphasis on direct negotiation solely to secure access. In general, neighboring landowners were often more willing to consider granting public access in the past than they are today.

Since the last planning cycle, the most notable examples of obtaining legal access rights to National Forest System lands on the Custer Gallatin National Forest by direct negotiations with landowners include:

- West Deer Creek Road 421, south of Big Timber
- West Fork Loop Road 166B, near Big Sky
- Stillwater Trail 90, near Red Lodge (Stillwater Mining Company)
- Goose Creek Road 1005, Gallatin Range
- Truman Gulch Road 1178, west side Bridger Mountains
- Beehive Basin Road 2505, Spanish Peaks
- Beaver-Stacey Road 4769 near Ashland (Wood Ranch)
- South Cave Hills Road 3113, Sioux District, South Dakota

5. Establish Existing or Historic Rights through Negotiation or Legal Action

Although used less frequently nationwide, this approach is critical and effective in certain situations. On the Custer Gallatin National Forest, this method is applied where the agency and public users believe that a historic public access route exists to National Forest System lands, but the route is contested or closed by a landowner. The Forest Service consults with the USDA Office of General Counsel, and works cooperatively with local counties and with public groups to try to resolve these situations. The counties or public groups may take the lead in some cases. The goal typically is either (a) to establish (prove through negotiation or legal means) that access

rights exist, or (b) to defend the public rights of access on existing routes, where contested by a landowner. Careful and extensive research and compilation of records is often involved. Each case is different and must stand on its own merits. The process often takes several years and substantial efforts to resolve.

Notable examples of establishing that historic rights exist to National Forest System lands on the Custer Gallatin National Forest include:

- Little Mission Road, east of Livingston
- Trail Creek ("Old Indian") Trail, east of Ennis, Spanish Peaks
- Leverich Canyon Road, south of Bozeman
- Donahue Trail 183, south of Livingston, east side of Gallatin Range

6. Condemnation

Condemnation is considered only when all other options to secure access have been exhausted. In the past, particularly in the 1970s and 1980s, several important access routes to the Custer Gallatin were acquired through Federal condemnation authority. In each situation, just compensation is paid to the landowner(s). Condemnation remains a viable tool today, but has not been used since the forest plans went into effect.

Examples of securing access rights on the Custer Gallatin National Forest through use of condemnation include Sheep Creek Road and Mile Creek Road, south of Quake Lake in the Henry's Mountains, Felix Canyon Road in the northern Bridgers, and Suce Creek Road south of Livingston in the Absaroka Mountains.

Trends and Drivers

One of the greatest trends affecting the management of land ownership, land uses, and access patterns is escalating housing development on private rural lands along national forest boundaries. As more people choose to live at the urban fringe and in scenic, rural areas, open space lands such as farms and ranches, including those adjacent to National Forest System land, are being lost to development (USDA Forest Service 2007).

Counties with national forest and grasslands are experiencing some of the highest population growth in the nation as people move near public lands. Even within national forest boundaries, the number of housing units on privately held lands increased from 500,000 to 1.5 million between 1950 and 2000 nationwide (Stein et al. 2007). Locally, there has been considerable residential development within the counties included in the analysis area with residential acreage increasing by 89 percent. From 2000 to 2010, Madison County had a 248 percent change in the residential land area development, Park County and Sweet Grass Counties also had considerable residential development with over 100 percent change. Harding County had the smallest residential development change (7 percent). Although residential acreage has increased substantially, the 11 county area has a much smaller percentage of land classified as residential (3.6 percent) than the rest of the nation (16 percent).

Increased housing density in areas adjoining National Forest System lands can increase the potential for encroachment, trespass, and unauthorized use and occupation of the public's land and resources (Stein et al. 2007). Encroachment on to national forests can transform publicly

owned land into privately claimed land for uses such as pastures, garbage dumps, and personal storage areas. Another notable impact from development on adjoining private lands includes illegal private road building and user-created off-highway vehicle trails on National Forest System lands.

As development on adjacent private lands and inholdings increases, national forest managers face management challenges associated with controlling property lines. Limited funding, resources, and workforce have not kept pace with increased development on adjacent private lands and the Forest Service estimates that control of property boundary lines for approximately 1 million acres of public land has been heavily compromised because of encroachment and trespass by adjoining landowners (Stein et al. 2007).

Developments occurring on inholdings can increase encroachment cases, the need for special use authorizations, and can limit management options on adjacent Federal lands. An active land adjustment program can reduce complications of managing National Forest System land where it is comingled with private lands.

The demand for special use authorizations is higher where public and private boundaries meet. Private land owners often require an authorization from the Forest Service for private road access, waterlines, and other utilities. The need to grant additional authorizations increases as private lands adjacent to or with the National Forest System boundary are subdivided, which increases the workload to the special uses program. At present, the Forest Service lacks the resources it needs to manage the special uses program (OIG 2011). An increase in special uses also influences management of the plan area because authorizations limit resource decisions.

An additional driver of change in land uses is the ever-growing demand for technology in communications. National Forest System lands often provide the highest points which are desirable for coverage of uses such as cellular phone and internet service. The request for communication uses on National Forest System land has increased as these services expand to more remote locations. Communication sites are critical for the wireless industry which has a growing need for additional antenna sites, including remote communities once considered too isolated for the investment of infrastructure (Federal Rights-of-Way Working Group 2004).

Private landowners' unwillingness to grant unrestricted public access across their land has increased as the public's use of Federal land has increased (GAO 1992). Factors contributing to inadequate access are private landowners' concerns about vandalism, potential liability, and desire for privacy or exclusive personal use (GAO 1992). Though this report is somewhat dated, the same reasons are given today by landowners for their unwillingness to grant permanent public access across their land.

Partnerships with national nonprofits (Rocky Mountain Elk Foundation, Trust for Public Lands, and others), local access advocacy groups, and the State have been productive in resolving access issues and are becoming more necessary as the Forest Service is faced with reduced budgets and staffing in lands.

Key Benefits to People

Utility Corridors and Communication Sites. Communities and businesses in and near the Custer Gallatin National Forest rely on utility corridors (energy, fiber optic) and communication sites (cellular, radio, emergency response, etc.). These services contribute to quality of life and

community sustainability, providing rural communities the ability to connect in a global or regional economy.

Access and Open Space Connections. Roads, trails and forest infrastructure provide for safe and reliable access for recreation, resource management, and private inholdings.

Information Needs

To improve management of National Forest System land where it is comingled with private lands, land adjustment priorities should be identified during the revision process and documented in the Custer Gallatin Forest Plan. In the current forest plans, utility rights-of-way and communication sites are not identified. In the revision process there is a need to identify where existing utilities are located (power transmission, fiber optic cable, telephone, oil and gas), where uses overlap, and where future growth is expected to determine lands suitable for right-of way-corridors within the plan area.

Developing a spatial layer that shows the location of all special use authorizations would be helpful for future management efficiencies in the program. GIS layers are not required for development of the forest plan but would be a valuable tool for drawing conclusions related to land uses and determining if management direction would be helpful in specific areas.

The Lands Status Records System should be updated to include historical right-of-way acquisition data for the Custer Gallatin. Spatial data for right of way acquisitions for the past 20 years has been entered in the System; however, historical data from the early 1990s and older has not been entered due to the huge amount of case files and reduction in labor force.

There is a need to identify geographic locations where access to the national forest boundary is inadequate, and identify road and trail access routes across private lands within the national forest, where access rights have not been perfected. The Gallatin Plan identified and mapped these needs in 1987. In 2006, access needs were analyzed and updated in the travel plan for the Gallatin National Forest; however, this information needs to be summarized for the Custer portion of the national forest. The access needs information should be reviewed and updated to the current year, 2016.

Key Findings

Longstanding Forest Service policy for the Landownership Adjustment Program is to acquire and consolidate key tracts of private land to protect and enhance wildlife and fish habitat, wilderness, recreational opportunities, wetlands and riparian areas, and to improve legal access and long-term management effectiveness. Funding and staffing to complete land adjustments is currently on a decline. The Custer Gallatin National Forest will need to be judicious in selecting from the land adjustment projects proposed in the future, pursing those proposals that result in a substantial public benefit and that have strong public support.

Counties with national forests are experiencing some of the highest growth rates as people move to be close to public lands. Trends show an increased demand for uses of national forest land, population growth, and increased residential development. The Custer Gallatin shares boundaries with Yellowstone National Park, other national forests, Bureau of Land Management lands, tribal lands, state lands, and private lands. With increasing emphasis on conserving and connecting open space, the Custer Gallatin National Forest will need to cooperate across

boundaries to sustain working and natural landscapes. The Custer Gallatin has a role to be involved outside the plan area boundary; actively partnering to secure access, conservation easements, and involvement in land use planning over a larger landscape.

Access to the Custer Gallatin National Forest is important. Private land within and adjacent to this national forest continues to be sold, and often subdivided, by owners who may not support or recognize the historic public access through their lands. Hundreds of situations exist within the Custer Gallatin where access across private ownership on existing trails and roads is not secure because no recorded easements exist. As a result, numerous system trails on private land are gradually being lost or deteriorated through subdivision, closure or obliteration. Partnerships with national nonprofits (Rocky Mountain Elk Foundation, Trust for Public Land, and others), local access advocacy groups, and the State have been productive in resolving access issues and are becoming more necessary as the Forest Service is faced with reduced budgets and staffing.

To effectively protect existing access routes, and improve legal access to National Forest System lands by securing new easements where feasible, it will be essential for the Custer Gallatin National Forest leadership to emphasize the access program in the years ahead.

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